



DEPARTMENT OF THE NAVY  
BOARD FOR CORRECTION OF NAVAL RECORDS  
2 NAVY ANNEX  
WASHINGTON DC 20370-5100

BJG  
Docket No: 5205-99  
3 December 1999

MR. [REDACTED]

Dear [REDACTED]:

This is in reference to your application for correction of your naval record pursuant to the provisions of title 10 of the United States Code, section 1552. By implication, you requested that the Board for Correction of Naval Records consider your request for remedial consideration for promotion from the 1996 Staff Sergeant Selection Board. You submitted this request to Headquarters Marine Corps (HQMC), and they forwarded it to the Board for appropriate action.

A three-member panel of the Board, sitting in executive session, considered your application on 2 December 1999. Your allegations of error and injustice were reviewed in accordance with administrative regulations and procedures applicable to the proceedings of this Board. Documentary material considered by the Board consisted of your application, together with all material submitted in support thereof, your naval record and applicable statutes, regulations and policies. In addition, the Board considered the advisory opinions furnished by the HQMC Enlisted Promotions Section (MMPR-2) dated 25 August and 20 October 1999, the memorandum from the HQMC Performance Evaluation Review Branch (MMER) dated 29 November 1999, and the memorandum for the record dated 1 December 1999, copies of which are attached. They also considered your rebuttal letter dated 29 September 1999.

After careful and conscientious consideration of the entire record, the Board found that the evidence submitted was insufficient to establish the existence of probable material error or injustice. In this connection, the Board recognized that despite your having been discharged, you could receive remedial consideration for promotion by means of a waiver of Marine Corps Order P1400.32B. However, they declined to direct HQMC to waive the order and grant you consideration by a remedial promotion board, since they found you were guilty of laches. In this regard, they noted their previous action to correct your naval record was dated 3 December 1996, yet you did not initiate your request for remedial consideration until 26 March 1999, when you were scheduled to be discharged in May 1999. They noted you assert that your career planner told you your discharge would not prevent your remedial consideration for promotion, however, they further observed that you say you did not receive

this information until you started the remedial promotion process. In determining that a waiver of the order was not warranted, they particularly noted that you were considered, but not selected, by the regular staff sergeant selection boards for 1997 and 1998, before which you had a corrected record. In view of the above, your application has been denied. The names and votes of the members of the panel will be furnished upon request.

It is regretted that the circumstances of your case are such that favorable action cannot be taken. You are entitled to have the Board reconsider its decision upon submission of new and material evidence or other matter not previously considered by the Board. In this regard, it is important to keep in mind that a presumption of regularity attaches to all official records. Consequently, when applying for a correction of an official naval record, the burden is on the applicant to demonstrate the existence of probable material error or injustice.

Sincerely,

W. DEAN PFEIFFER  
Executive Director

Enclosures



DEPARTMENT OF THE NAVY  
HEADQUARTERS UNITED STATES MARINE CORPS  
MANPOWER AND RESERVE AFFAIRS DEPARTMENT  
HARRY LEE HALL, 17 LEJEUNE ROAD  
QUANTICO, VIRGINIA 22134-5104

5205-99  
IN REPLY REFER TO:  
1400/3  
MMPR-2  
25 Aug 99

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, BOARD FOR CORRECTION OF  
NAVAL RECORDS

Subj: ADVISORY OPINION IN THE CASE OF SERGEANT [REDACTED]  
[REDACTED] FORMER MARINE

Ref: (a) BCNR MEMO of 23 Aug 99  
(b) CO RS Sacramento, CA ltr 5800 Execo 18 Sep 95  
(c) P1400.32B (Enlisted Promotion Manual)

1. Reference (a) is a request for an advisory opinion on whether the removal of all derogatory material related to the nonjudicial punishment (NJP) imposed on 27 September 1994 and 1 February 1995, the removal of relief for cause information, and the reinstatement of Military Occupational Specialty (MOS) 8411, would make Sergeant [REDACTED] eligible for remedial consideration for promotion to staff sergeant.

2. Per reference (b) the NJP imposed on 27 September 1994 and 1 February 1995 has been set aside; however Sergeant [REDACTED] was discharged from the Marine Corps on 24 May 1999 which made him ineligible for remedial consideration for promotion. Per paragraph 3502.7 of reference (c), discharged Marines are not eligible for remedial promotion consideration. Recommend his petition be denied.

[REDACTED]  
Assistant Head, Enlisted Promotions  
Promotion Branch  
By direction of  
the Commandant of the Marine Corps





991129

# MEMORANDUM

DATE:

From: [REDACTED], MMER

To: M [REDACTED] BCNR

Subj: AO on Former Ser [REDACTED]

Brian:

This case is being returned without any additional Advisory Opinion. The Enlisted Assignment Branch (MMEA-6) declines to comment since this is a policy issue that has already been addressed and is under the purview of the Promotion Branch.

V/Rspy,

[REDACTED]

**MEMORANDUM FOR THE RECORD**

**DEPARTMENT OF THE NAVY**

**BOARD FOR CORRECTION OF NAVAL RECORDS**

**PERFORMANCE SECTION**

**2 NAVY ANNEX, STE. 2432**

**WASHINGTON, DC 20370-5100**

**COMM: (703) 614-9842 OR DSN: 224-9842**

**FAX: (703) 614-9857 OR 224-9857**

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**DATE: 1DEC99**

**DOCKET NO:** [REDACTED]

**PETITIONER (PET): EX-SGT** [REDACTED]

**PARTY CALLED:** [REDACTED] SMC, HQMC MMPR-2

**TELEPHONE NO:** [REDACTED]

**WHAT I SAID:** I ASKED WHEN PET HAD BEEN CONSIDERED FOR PROM TO SSGT.

**WHAT PARTY SAID:** [REDACTED] INFORMED ME THAT PET HAD BEEN CONSIDERED FOR PROM BEFORE THE CY 1996-1998 SSGT SEL BDS, BUT WAS NOT SELECTED FOR PROM. HE HAD A CORRECTED RECORD BEFORE THE 1997 AND 1998 SSGT SEL BDS.

[REDACTED]